

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

FOUNDRY NETWORKS, INC.,	)	
a Delaware Corporation,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 06-470-SLR
	)	
ALCATEL USA RESOURCES, INC.	)	
a Delaware Corporation,	)	(JURY TRIAL DEMANDED)
ALCATEL INTERNETWORKING, INC.,	)	
a California Corporation,	)	<b>PUBLIC VERSION</b>
COMPAGNIE FINANCIÈRE ALCATEL	)	
a French Corporation, and	)	
ALCATEL S.A.,	)	
a French Corporation,	)	
	)	
Defendants.	)	

**DECLARATION OF FABIO E. MARINO  
IN SUPPORT OF FOUNDRY'S OPPOSITION TO  
DEFENDANTS' MOTION TO DISMISS UNDER RULE 12(b)(2)**

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*Attorneys for Plaintiff  
Foundry Networks, Inc.*

Dated: November 22, 2006  
Public Version: November 30, 2006

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

**FOUNDRY NETWORKS, INC.,**  
a Delaware Corporation,

Plaintiff,

**V.**

Civil Action No. 06-470-SLR

**ALCATEL USA RESOURCES, INC.**  
a Delaware Corporation,

(JURY TRIAL DEMANDED)

**ALCATEL INTERNETWORKING, INC.,**  
a California Corporation,

**COMPAGNIE FINANCIÈRE ALCATEL**  
a French Corporation, and

**ALCATEL S.A.,**  
a French Corporation,

**PUBLIC VERSION**

**Defendants.**

**DECLARATION OF FABIO E. MARINO  
IN SUPPORT OF FOUNDRY'S OPPOSITION TO  
DEFENDANTS' MOTION TO DISMISS UNDER RULE 12(b)(2)**

**I, Fabio E. Marino, declare as follows:**

1. My name is Fabio E. Marino. I am over the age of eighteen years, of sound mind, and competent to make this Declaration. I have personal knowledge of the facts contained herein and can testify to their truthfulness.

2. I am a partner in the law firm of Orrick, Herrington & Sutcliffe LLP, resident in the firm's Menlo Park, California offices.

3. Among other things, I represent Plaintiff Foundry Network's, Inc. ("Foundry") in connection with its negotiation and execution of intellectual property licensing arrangements. In this capacity, I have been directly involved in pre-suit licensing and trial-settlement discussions related to the infringement action filed by


Alcatel USA Resources, Inc. and Alcatel Internetworking, Inc. against Foundry in the U.S. District Court for Delaware, Docket No. 05-418-SLR (filed on July 27, 2005) (the "Delaware litigation.")

4. In connection with pre-suit licensing discussions prior to Alcatel's filing of the Delaware litigation, I had several meetings with David Hawkes of Compagnie Financière Alcatel ("CFA") in the United States. Those meetings include the following:

- a. On or about July 31, 2002, in East Palo Alto, California.
- b. On or about November 26, 2002, in East Palo Alto, California.
- c. On or about February 20, 2003, in East Palo Alto, California.
- d. On or about October 29, 2003, in East Palo Alto, California.
- e. On or about March 18, 2004, in East Palo Alto, California.
- f. On or about April 30, 2004, in East Palo Alto, California.
- g. On or about May 25, 2004, in San Francisco, California.

I declare under penalty of perjury under the laws of the United States of America that the foregoing statements are true and correct.

Dated: November 21, 2006

  
Fabio E. Marino

Public Version: November 30, 2006

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

**CERTIFICATE OF SERVICE**

I, Philip A. Rovner, hereby certify that on November 30, 2006, the within document was filed with the Clerk of the Court using CM/ECF which will send notification of such filing(s) to the following; that the document was served on the following counsel as indicated; and that the document is available for viewing and downloading from CM/ECF.

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I hereby certify that on November 30, 2006 I have sent by E-mail and First-Class Mail the foregoing document to the following non-registered participants:

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